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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,379	07/26/2001	Robert D. Hamman	065363.0110	9987
7590	01/27/2006			EXAMINER POPHAM, JEFFREY D
Barton E. Showalter Baker Botts L.L.P. Suite 600 2001 Ross Avenue Dallas, TX 75201-2980			ART UNIT 2137	PAPER NUMBER

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/917,379	HAMMAN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jeffrey D. Popham	2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8,10-19,21-38,40-43 and 45 is/are rejected.
- 7) Claim(s) 9,20,39 and 44 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Remarks***

Claims 1-45 are pending.

***Claim Objections***

1. Claims 21 and 22 are objected to because of the following informalities: Each of these claims refers to the step of "receiving a key", which has not been introduced in claim 13. For purposes of prior art rejection, claims 21 and 22 have been construed as being dependent upon claim 19. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 13-17, 27, 36, 37, 41, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Cummings (U.S. Patent 6,183,361).

Regarding Claim 1,

Cummings discloses a system for playing a lottery-type game, comprising:

A play generator operable to generate a playfile without input from any player of the game, the playfile having a plurality of records, each record comprising a numeric value (Column 6, lines 33-47);

A win generator operable to generate a winning number (Column 6, lines 59-65); and

An evaluator operable to receive the playfile and the winning number, the evaluator operable to retrieve a record from the playfile in response to input from a player, to compare a numeric value in the retrieved record to the winning number, and to communicate a win/loss result to the player (Column 6, line 47 to Column 7, line 4; and Column 8, lines 43-59).

Regarding Claim 13,

Claim 13 is a method claim that corresponds to system claim 1 and is rejected for the same reasons.

Regarding Claim 36,

Claim 36 is an apparatus claim that corresponds to system claim 1 and is rejected for the same reasons.

Regarding Claim 41,

Claim 41 is a logic encoded media claim that corresponds to system claim 1 and is rejected for the same reasons.

Regarding Claim 2,

Cummings discloses that the evaluator receives the playfile in an electronic format at an interface coupled to a network that provides an electronic communication path between the evaluator and the play generator (Column 8, lines 19-59; and Figure 1, numeral 22).

Regarding Claim 17,

Claim 17 is a method claim that corresponds to system claim 2 and is rejected for the same reasons.

Regarding Claim 3,

Cummings discloses that the evaluator receives the playfile prior to the win generator generating the winning number (Column 6, lines 59-65).

Regarding Claim 14,

Claim 14 is a method claim that corresponds to system claim 3 and is rejected for the same reasons.

Regarding Claim 27,

Claim 27 is a method claim that corresponds to system claim 3 and is rejected for the same reasons.

Regarding Claim 37,

Claim 37 is an apparatus claim that corresponds to system claim 3 and is rejected for the same reasons.

Regarding Claim 4,

Cummings discloses that the evaluator is further operable to:

Store the playfile prior to playing the lottery-type game, the playfile representing a number of plays at a win probability (Column 6, lines 33-47; and Column 7, lines 21-35); and

Communication a win/loss result to the player in a sufficiently small amount of time to convey a real-time play experience to a user of the player (Column 6, line 47 to Column 7, line 4).

Regarding Claim 15,

Claim 15 is a method claim that corresponds to system claim 4 and is rejected for the same reasons.

Regarding Claim 42,

Claim 42 is a logic encoded media claim that corresponds to system claim 4 and is rejected for the same reasons.

Regarding Claim 5,

Cummings discloses that the play generator generates a plurality of numeric values for the playfile based on a number of plays and a win probability (Column 7, lines 21-44).

Regarding Claim 16,

Cummings discloses that the steps of retrieving, comparing, and communicating are performed locally at a single evaluator site without external communication (Figure 1).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 6, 7, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Bradish (U.S. Patent 5,830,064).

Regarding Claim 6,

Cummings does not disclose that the win generator generates the winning number based on a plurality of seeds from public, verifiable random sources.

Bradish, however, discloses that the win generator generates the winning number based on a plurality of seeds from public, verifiable random sources (Column 1, lines 20-37). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the random number generation technique of Bradish into the lottery-type game of Cummings in order to allow the random generating sub-steps to appear and be more random than a normal pseudo random number generator.

Regarding Claim 24,

Claim 24 is a method claim that corresponds to system claim 6 and is rejected for the same reasons.

Regarding Claim 7,

Cummings as modified by Bradish discloses the system of claim 6, in addition, Bradish discloses that the random sources comprise a lottery result, weather data, or environmental noise (Column 1, lines 20-37).

Regarding Claim 25,

Claim 25 is a method claim that corresponds to system claim 7 and is rejected for the same reasons.

4. Claims 8 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Bradish, further in view of Backus (U.S. Patent 5,197,736).

Regarding Claim 8,

Cummings discloses that the win generator is integral with the evaluator and generates the winning number based on a winning number algorithm received in the playfile from the play generator (Column 8, lines 19-59);

But does not disclose using a plurality of seeds from public, verifiable random sources, wherein the random sources comprise a plurality of published, independent lottery results, and the winning number algorithm specifying a numeric calculation using the seeds to generate the winning number.

Bradish, however, discloses generating a winning number based on a plurality of seeds from public, verifiable random sources, and that the winning number algorithm specifies a numeric calculation using the seeds

to generate the winning number (Column 1, lines 20-37). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the random number generation technique of Bradish into the lottery-type game of Cummings in order to allow the random generating sub-steps to appear and be more random than a normal pseudo random number generator.

Backus, however discloses that the random sources comprise a plurality of published, independent lottery results (Column 2, line 21 to Column 3, line 15). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teachings about previous lottery results of Backus into the first random generating sub-step of the lottery-type game of Cummings as modified by Bradish in order to generate the seed with respect to prior lottery results, so that a different output of hits would be displayed each time, preventing the user from noticing that the keno game is finite and pari-mutual, as opposed to being completely random.

Regarding Claim 26,

Claim 26 is a method claim that corresponds to system claim 8 and is rejected for the same reasons.

5. Claims 10-12, 18, 19, 21-23, 34, 38, 40, 43, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Dray (U.S. Patent Application Publication 2002/0184485) and Taaffe (U.S. Patent 4,747,139).

Regarding Claim 10,

Cummings discloses that each record in the playfile is to be used in response to input from the player (Column 8, lines 19-25), but does not disclose that the playfile comprises an encrypted playfile and an extractor, the evaluator operable to decrypt, in response to input from the player, only a next record in the encrypted playfile using the extractor.

Dray, however, discloses that a file comprises an encrypted file and an extractor used to decrypt the file (Page 7, Paragraph 82). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-encrypting and self verifying file of Dray into the lottery-type game of Cummings in order to protect the file from unauthorized access, while allowing any computer having means for understanding the file to decrypt it.

Taaffe, however, discloses that the system is operable to decrypt only a next record in the file (Column 9, lines 48-67). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the encryption technique of Taaffe into the lottery-type game of Cummings as modified by Dray in order to allow the system to

protect each of the files, so that no computer without the proper key generator can ever know what the next record will yield.

Regarding Claim 18,

Claim 18 is a method claim that corresponds to system claim 10 and is rejected for the same reasons.

Regarding Claim 38,

Claim 38 is an apparatus claim that corresponds to system claim 10 and is rejected for the same reasons.

Regarding Claim 43,

Claim 43 is a logic encoded media claim that corresponds to system claim 10 and is rejected for the same reasons.

Regarding Claim 11,

Cummings discloses that each record in the playfile is to be used in response to input from the player (Column 8, lines 19-25), but does not disclose that the playfile comprises an encrypted playfile and an extractor.

Dray, however, discloses that a file comprises an encrypted file and an extractor used to decrypt the file (Page 7, Paragraph 82). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-encrypting and self-verifying file of Dray into the lottery-type game of Cummings in order to protect the file from unauthorized access, while allowing any computer that can understand the file decrypt it.

Taaffe, however, discloses decrypting a previous record in the file, the decrypted previous record comprising a key, and decrypting only a next record in the encrypted file using the key (Column 9, lines 48-67). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the encryption technique of Taaffe into the lottery-type game of Cummings as modified by Dray in order to allow the system to protect each of the files, so that no computer without the proper key generator can ever know what the next record will yield.

Regarding Claim 19,

Claim 19 is a method claim that is broader than system claim 11 and is rejected for the same reasons.

Regarding Claim 21,

Claim 21 is a method claim that is broader than system claim 11 and is rejected for the same reasons.

Regarding Claim 12,

Cummings discloses that each record in the playfile is to be used in response to input from the player (Column 8, lines 19-25), but does not disclose that the playfile comprises an encrypted playfile and an extractor, each record of the playfile comprising a verification string, a numeric value, and a key.

Dray, however, discloses that the file comprises an encrypted file and an extractor, each record of the file comprising a verification string

and a numeric value (Page 7, Paragraph 82); retrieving a verification string from the decrypted current record, comparing the verification string to an authorized string, and proceeding only if the verification string is authenticated (Page 4, Paragraphs 45-51; and Page 5, Paragraph 64). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-encrypting and self-verifying file of Dray into the lottery-type game of Cummings in order to protect the file from unauthorized access, while allowing any computer that can understand the file decrypt it.

Taaffe, however, discloses that each record in the file comprises a key, decrypting a previous record in the file, the decrypted previous record comprising a key, decrypting only a current record in the encrypted file using the key, and retrieving a next key from the decrypted current record for use in decrypting a next record (Column 9, lines 48-67). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the encryption technique of Taaffe into the lottery-type game of Cummings as modified by Dray in order to allow the system to protect each of the files, so that no computer without the proper key generator can ever know what the next record will yield.

Regarding Claim 23,

Claim 23 is a method claim that corresponds to system claim 12 and is rejected for the same reasons.

Regarding Claim 40,

Claim 40 is an apparatus claim that corresponds to system claim 12 and is rejected for the same reasons.

Regarding Claim 45,

Claim 45 is a logic encoded media claim that corresponds to system claim 12 and is rejected for the same reasons.

Regarding Claim 22,

Cummings as modified by Dray and Taaffe discloses the method of claim 19, in addition, Taaffe discloses that receiving a key comprises receiving the key from a remote location (Column 9, lines 49-54).

Regarding Claim 34,

Cummings as modified by Taaffe discloses the method of claim 33, in addition, Cummings discloses that each record in the playfile is to be used in response to input from the player (Column 8, lines 19-25) and communicating the playfile to a remote location (Column 6, lines 33-59); and Taaffe discloses decrypting the records of the file one at a time (Column 9, lines 48-67), but Cummings as modified by Taaffe does not disclose that the playfile comprises an extractor.

Dray, however, discloses that the file comprises an extractor (Page 7, Paragraph 82); retrieving a verification string from the decrypted current record, comparing the verification string to an authorized string, and proceeding only if the verification string is authenticated (Page 4,

Paragraphs 45-51; and Page 5, Paragraph 64). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-encrypting and self-verifying file of Dray into the lottery-type game of Cummings in order to protect the file from unauthorized access, while allowing any computer that can understand the file decrypt it.

6. Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Dray, Taaffe, Bradish, and Backus.

Regarding Claim 28,

Cummings discloses a method for playing a lottery-type game, comprising:

Storing a playfile received in an electronic format from a remote location, the playfile representing a number of plays and a win probability, each record comprising a numeric value (Column 6, lines 33-47);

After storing the playfile, receiving a winning number (Column 6, line 59 to Column 7, line 4);

Retrieving a numeric value from the current record (Column 8, lines 19-34);

Comparing the numeric value to the winning number (Column 6, line 59 to Column 7, line 4);

Communicating a win/loss result to the player (Column 6, line 59 to Column 7, line 4); and

That each record in the playfile is to be used in response to input from the player (Column 8, lines 19-25)

But does not disclose the use of seeds in the winning number generator or the encryption and verification of the playfile.

Dray discloses that the file comprises an encrypted file and an extractor, each record of the file comprising a verification string and a numeric value (Page 7, Paragraph 82); retrieving a verification string from the decrypted current record, comparing the verification string to an authorized string, and proceeding only if the verification string is authenticated (Page 4, Paragraphs 45-51; and Page 5, Paragraph 64). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-encrypting and self-verifying file of Dray into the lottery-type game of Cummings in order to protect the file from unauthorized access, while allowing any computer that can understand the file decrypt it.

Taaffe, however, discloses that each record in the file comprises a key, receiving a key, decrypting a previous record in the file, the decrypted previous record comprising a key, decrypting only a current record in the encrypted file using the key, and retrieving a next key from the decrypted current record for use in decrypting a next record (Column 9, lines 48-67).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the encryption technique of Taaffe into the lottery-type game of Cummings as modified by Dray in order to allow the system to protect each of the files, so that no computer without the proper key generator can ever know what the next record will yield.

Bradish, however, discloses generating a winning number based on seeds from public, verifiable random sources (Column 1, lines 20-37). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the random number generation technique of Bradish into the lottery-type game of Cummings in order to allow the random generating sub-steps to appear and be more random than a normal pseudo random number generator.

Backus, however discloses that the random sources comprise a plurality of published, independent lottery results (Column 2, line 21 to Column 3, line 15). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teachings about previous lottery results of Backus into the first random generating sub-step of the lottery-type game of Cummings as modified by Bradish in order to generate the seed with respect to prior lottery results, so that a different output of hits would be displayed each time, preventing the user from noticing that the keno game is finite and pari-mutual, as opposed to being completely random.

Regarding Claim 29,

Cummings as modified by Dray, Taaffe, Bradish, and Backus discloses the method of claim 28, in addition, Taaffe discloses that receiving a key comprises decrypting a previous record in the playfile, the decrypted previous record comprising a key (Column 9, lines 48-67).

Regarding Claim 30,

Cummings as modified by Dray, Taaffe, Bradish, and Backus discloses the method of claim 28, in addition, Taaffe discloses that receiving a key comprises receiving a key communicated from a remote location (Column 9, lines 49-54).

Regarding Claim 31,

Cummings as modified by Dray, Taaffe, Bradish, and Backus discloses the method of claim 28, in addition, Cummings discloses that the step of communicating a win/loss result to the player is performed in a sufficiently small amount of time to convey a real-time play experience to a user of the player (Column 6, line 47 to Column 7, line 4).

Regarding Claim 32,

Cummings as modified by Dray, Taaffe, Bradish, and Backus discloses the method of claim 28, in addition, Cummings discloses that the steps of retrieving a numeric value, comparing, and communicating are performed locally at a single evaluator site without external communication (Figure 1).

7. Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Taaffe.

Regarding Claim 33,

Cummings discloses a method for generating a playfile for a lottery-type game, comprising:

Receiving a desired number of plays and a win probability (Column 6, lines 47-59);

Generating a record for each of the desired number of plays, each record including a numeric value randomly generated using the win probability (Column 8, lines 19-34); and

Combining the records into a playfile (Column 7, lines 33-59);

But does not disclose generating a key for decrypting the next record.

Taaffe, however, discloses generating, for at least some of the records, a key for decrypting the next record (Column 9, lines 48-67). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the encryption technique of Taaffe into the lottery-type game of Cummings as modified by Dray in order to allow the system to protect each of the files, so that no computer without the proper key generator can ever know what the next record will yield.

Regarding Claim 35,

Cummings as modified by Taaffe discloses the method of claim 33, in addition, Taaffe discloses that at least one record in the playfile includes an indicator to receive an external key to decrypt the next record (Column 9, lines 48-67).

#### ***Allowable Subject Matter***

Claims 9, 20, 39, and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

Claim 9 involves receiving, at the play generator, the seeds used in the win generator to generate the winning number, and then, at the play generator, executing the winning number algorithm to verify the win/loss result. The closest prior art, as applied to claim 8, does not disclose and has no purpose of a verification step at the play generator that executes the winning number algorithm based upon the seeds, since the play generator already knows how many “hits” each play is going to have, meaning that any winning number verification to be done at the play generator will involve only a simple comparison to determine whether or not the appropriate number of hits for a particular play are present in the winning numbers.

Regarding Claims 20, 39, and 44, claim 20 includes the limitations from claim 19 regarding receiving a key and decrypting a next record within the encrypted playfile using the extractor and the key, as well as the additional limitation of “normalizing a

numeric value in the decrypted record to adjust locally the win probability". The closest prior art, as applied to claim 19, does not disclose a normalizing step within the evaluator, in order to adjust the win probability at the evaluator, since the win probabilities are already set to a predetermined limit within Cummings as modified by Dray and Taaffe, any change to these win probabilities after generation of the playfiles would provide no benefit within the system.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Popham whose telephone number is (571)-272-7215. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571)272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER